

REMARKS

The Applicant respectfully requests further examination and consideration in view of the arguments set forth fully below. Claims 1-28 were previously pending in this application. Within the Office Action, Claims 1-28 have been rejected. By the above amendment, Claims 1, 7 and 18 have been amended. Accordingly, Claims 1-28 are currently pending.

Amendments to the Specification

By way of amendments made above, the Specification has been amended to correct minor typographical errors. No new matter has been added.

Rejections Under 35 U.S.C. § 102

Within the Office Action, Claims 1-28 have been rejected under 35 U.S.C. § 102(c) as being anticipated by U.S. Patent Application Publication No. US 2006/0159109 A1 to Lamkin et al. ("Lamkin" or "Lamkin '109"). Applicant respectfully disagrees. Applicant respectfully submits that Lamkin '109 is not *prior* art with respect to the presently-claimed invention. Further, Lamkin '109 does not teach the presently-claimed invention.

Lamkin '109 is not prior art with respect to the presently-claimed invention. The application for the presently-claimed invention was filed March 18, 2004. Lamkin '109 was filed December 16, 2005. Lamkin '109 claims the benefit of priority under 35 U.S.C. § 119 of provisional U.S. Application No. 60/637,357 to Lamkin ("Lamkin '357") which was filed December 16, 2004. Thus, both Lamkin '109 and Lamkin '357 are not prior art with respect to the presently-claimed invention. Lamkin '109 also claims the benefit of priority under 35 U.S.C. § 120, as a continuation-in-part, of U.S. Patent Application No. 10/860,351 to Lamkin et al. ("Lamkin '351"), U.S. Patent Application No. 11/060,638 to Randall et al. ("Randall") and U.S. Patent Application No. 09/656,533 to Maffezoni ("Maffezoni"). Lamkin '351 further claims the benefit of priority under 35 U.S.C. § 119 of U.S. Provisional Patent Application No. 60/531,565 ("Lamkin '565").

For a later filed application to claim the benefit of priority of an earlier filed application as a continuation-in-part under 35 U.S.C. § 120, the earlier application must have at least one inventor in common with the later filed application. The earlier application must also *fully disclose* the claimed invention of the later-filed application in the manner required by 35 U.S.C.

§ 112, first paragraph, for a benefit claim under 35 U.S.C. § 120. The later application may only claim priority to that portion of the earlier application which fully discloses the later application. [MPEP § 201.11]. Applicant respectfully submits that the prior applications from which Lamkin '109 claims priority as continuations-in-part do not meet the aforementioned disclosure and inventorship requirements and that, therefore, Lamkin '109 may not claim the benefit of priority of the prior applications. Thus, Lamkin '109 is not prior art with respect to the presently-claimed invention.

Maffezoni

Lamkin '109 claims the benefit of priority of Maffezoni under 35 U.S.C. § 120 as a continuation-in-part. As described above, a continuation-in-part must have at least one inventor in common with the prior application from which it claims the benefit of priority. Maffezoni is the only inventor listed for this application. Maffezoni does not appear as an inventor on Lamkin '109. Therefore, Lamkin '109 is an improper continuation-in-part with respect to Maffezoni and may not claim the benefit of priority of Maffezoni.

Randall

Randall has a filing date of February 16, 2005. Randall has no parent application(s) from which it claims the benefit of priority. The filing date of the presently-claimed invention is March 18, 2004. Therefore, Randall is not prior art with respect to the presently-claimed invention.

Lamkin '351, Lamkin '565

Lamkin '351 has a filing date of June 2, 2004. Therefore, Lamkin '351 is not prior art with respect to the presently-claimed invention. Lamkin '351 claims the benefit of priority of provisional application Lamkin '565 under 35 U.S.C. § 119. Lamkin '565 has a filing date of December 19, 2003, which pre-dates the filing date of the presently-claimed invention. For Lamkin '109 to claim the benefit of priority as a continuation-in-part of Lamkin '351, and through Lamkin '351 to provisional Lamkin '565, the earlier application Lamkin '565 must *fully disclose* the invention of the later application Lamkin '109, within the meaning of 35 U.S.C. § 112, first paragraph. Alternatively, Lamkin '565, itself, may be prior art if it teaches the presently-claimed invention. Applicant respectfully submits that Lamkin '565 does not meet either criteria. Therefore, Lamkin '565 does not provide a priority date for Lamkin '109 which pre-dates the presently-claimed invention and Lamkin '565 does not, itself, teach the presently-claimed invention.

Lamkin '565 does not fully disclose the later application Lamkin '109. Lamkin '109 is directed to methods for managing content over a local network comprising detecting there is a change to content on a local network, determining whether the change is additional content, determining whether the additional content can be identified, and determining whether there is a predictive distribution scheme for distribution of the additional content over the local network. Lamkin '565 does not disclose any of the above limitations. Therefore, Lamkin '109 is not a proper continuation-in-part of Lamkin '565. Consequently, Lamkin '109 may not claim the benefit of priority of Lamkin '565. Thus, Lamkin '109 is not prior art with respect to the presently-claimed invention.

Lamkin '565 also does not, itself, teach the presently-claimed invention. Lamkin '565 is directed to methods, data structures and systems for receiving a request for content, searching for a plurality of entities in response to the received request, and creating a collection of entities. Lamkin '565 teaches non-volatile storage for storing user data, state information, access rights keys *and not entities or collections*. [Lamkin '565, page 48, lines 25-27]. The Content Manager of Lamkin '565 is directed to content management *for playback*. [Lamkin '565, page 42, lines 10-12]. Thus, although Lamkin '565 states "local storage can also act as a cache for networked content," it is clear from the context of Lamkin '565, that a cache is merely a temporary playback buffer for ensuring continuous media streaming when playing back media from a remote network source. Lamkin '565 does not teach the *local media cache engine* of the presently-claimed invention. Lamkin '565 does not teach methods for *locally storing content* available from one or more remote source devices within a network of devices comprising *identifying and selecting* content from a remote source device, *requesting a transfer* of the content from the remote source device, *storing the content* received from the remote source device within a local media cache, thereby forming a local content copy, and receiving user defined preferences and criteria of content to be selected, wherein identifying and selecting content is performed automatically based on user-defined preferences and criteria.

Assuming, without conceding, that Lamkin '109 is entitled to the benefit of priority of Lamkin '565, Lamkin '109 ("Lamkin") does not teach the presently-claimed invention. Lamkin does not teach *locally storing* content transferred from one or more remote devices, identified and selected based on *user-defined* preferences and criteria.

Lamkin teaches *centralization* of content on a network. Lamkin teaches a centralized database to track devices and the location of content on the network. [Lamkin, Fig. 4, ¶ 0065]. One or more network servers ("server") monitor the network for the appearance of new remote

devices and detect whether there is a change to the content on the network. [Lamkin, ¶ 0073]. A change to the content on the network is determined by comparing the content on a newly detected remote device against a centralized network data storage such as a log file, Content Directory Service (“CDS”), or other tracking utilized by the server. [Lamkin, ¶ 0072]. The network server then detects whether a device newly connected to the network contains content *to be added to the network* by searching the content of the remote device to determine if the remote device has new content and determining the type of the content. [Lamkin, ¶ 0073]. Lamkin further teaches that if the network server has a predictive distribution scheme stored for the type of new content found on the remote device, then the network server will initiate *distribution* of the content across the network utilizing the predictive distribution scheme. [Lamkin, ¶ 0099].

In sharp contrast to Lamkin, the presently-claimed invention teaches *localization* of content in a network of devices. In the presently-claimed invention, each device on a network may contain a *local media cache engine* thus constituting a *local device* within the meaning of the presently-claimed invention. [Present Specification, page 11, line 7; page 12, lines 11-12]. User preferences and criteria for selecting content from remote source devices are specified on each local device. [Present Specification, page 11, lines 16-19]. Thus, for each type of content, each local device can have a different set of user preferences and criteria for selecting such content from remote source devices. Selected content, on one or more remote source devices, matching the user defined preferences *specified on a local device*, is transferred *to the requesting local device*, not to a centralized network content storage. [Present Specification, page 11, lines 21-24]. Thus, the presently-claimed invention teaches *localization* of content and *user-defined* preferences and criteria *for each local device*.

Independent Claim 1 is directed to a method of *locally storing* content available from one or more remote source devices within a network of devices. The method of Claim 1 comprises receiving user defined preferences and criteria of content to be selected at a local device, coupling the local device to a remote source device through the network, identifying and selecting content from the remote source device, requesting a transfer of the content from the one or more remote source devices to the local device, storing the content received from the one or more remote source devices within a local media cache thereby forming a local content copy on the local device, providing the local content copy for playback and transfer to a portable device, wherein identifying and selecting content is performed automatically based on the user defined preferences and criteria. As discussed above, Lamkin does not teach *storing* content available from one or more remote devices within a local media cache, thereby forming a local content

copy on the local device, based on *user defined preferences* and criteria. For at least these reasons, the independent Claim 1 is allowable over the teachings of Lamkin.

Claims 2-6 are all dependent upon the independent Claim 1. As described above, the independent Claim 1 is allowable over Lamkin. Accordingly, Claims 2-6 are all also allowable as being dependent upon an allowable base claim.

Independent Claim 7 is directed to an apparatus to store, on a local device, content available from one or more remote source devices within a network of devices. The apparatus of Claim 7 comprises an interface to the network of devices, a local media cache engine coupled to the interface to request a transfer of identified and selected content from a remote source device, and a local media cache coupled to the local media cache engine to store the identified and selected content received from the remote source device thereby forming a local content copy, wherein the local media cache engine receives user defined preferences and criteria of content to be selected and automatically identifies and selects content based on the user defined preferences and criteria. As discussed above, Lamkin does not teach *locally storing* content available from one or more remote devices within a local media cache, thereby forming a local content copy on the local device, based on *user defined preferences* and criteria. For at least these reasons, the independent Claim 7 is allowable over the teachings of Lamkin.

Claims 8-12 are all dependent upon the independent Claim 7. As described above, the independent Claim 7 is allowable over Lamkin. Accordingly, Claims 8-12 are all also allowable as being dependent upon an allowable base claim.

Independent Claim 13 is directed to a local device for storing content available from one or more remote source devices within a network of devices. The local device of Claim 13 comprises an interface to the network of devices, a local media cache engine coupled to the interface to request a transfer of identified and selected content from a remote source device, a local media cache coupled to the local media cache engine to store the identified and selected content received from the remote source device thereby forming a local content copy, wherein the local media cache engine receives user defined preferences and criteria of content to be selected and automatically identifies and selects content based on the user defined preferences and criteria, and a database coupled to the local media cache engine and the local media cache to store information about the local content copy. As discussed above, Lamkin does not teach *locally storing* content available from one or more remote devices within a local media cache, thereby forming a local content copy on the local device, based on *user defined preferences* and

criteria. For at least these reasons, the independent Claim 13 is allowable over the teachings of Lamkin.

Claims 14-17 are all dependent upon the independent Claim 13. As described above, the independent Claim 13 is allowable over Lamkin. Accordingly, Claims 14-17 are all also allowable as being dependent upon an allowable base claim.

Independent Claim 18 is directed to a local media cache engine to store content available from one or more remote source devices within a network of devices. The local media cache engine of Claim 18 comprises a local media cache to store identified and selected content received from a remote source device thereby forming a local content copy, wherein the local media cache engine receives user defined preferences and criteria of content to be selected and automatically identifies and selects content based on the user defined preferences and criteria, and a database coupled to the local media cache to store metadata information about the local content copy. As discussed above, Lamkin does not teach *locally storing* content available from one or more remote devices within a local media cache, thereby forming a local content copy on the local device, based on *user defined preferences* and criteria. For at least these reasons, the independent Claim 18 is allowable over the teachings of Lamkin.

Claims 19-22 are all dependent upon the independent Claim 18. As described above, the independent Claim 18 is allowable over Lamkin. Accordingly, Claims 19-22 are all also allowable as being dependent upon an allowable base claim.

Independent Claim 23 is directed to a network of devices. The network of devices of Claim 23 comprises one or more remote source devices each having available content, and a local device coupled to the one or more remote source devices to store content available from the one or more remote source devices. The local device includes an interface coupled to the one or more remote source devices, a local media cache engine coupled to the interface to request a transfer of identified and selected content from a remote source device, wherein the local media cache engine receives user defined preferences and criteria of content to be selected and automatically identifies and selects content based on the user defined preferences and criteria, and a local media cache coupled to the local media cache engine to store the identified and selected content received from the remote source device thereby forming a local content copy. As discussed above, Lamkin does not teach *locally storing* content available from one or more remote devices within a local media cache, thereby forming a local content copy on the local device, based on *user defined preferences* and criteria. For at least these reasons, the independent Claim 23 is allowable over the teachings of Lamkin.

Claims 24-28 are all dependent upon the independent Claim 23. As described above, the independent Claim 23 is allowable over Lamkin. Accordingly, Claims 24-28 are all also allowable as being dependent upon an allowable base claim.

For at least the foregoing reasons, Applicant respectfully submits that the Claims 1-28 are in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: February 6, 2009

By: /Jonathan O. Owens/
Jonathan O. Owens
Reg. No.: 37,902
Attorney for Applicant